

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

MERCK & CO., INC., )  
Plaintiff, )  
v. ) C.A. No. 06-230 (GMS)  
APOTEX, INC., )  
Defendant. )

## ORDER

The court has determined that it will grant Merck's motion to dismiss for lack of subject matter jurisdiction in light of Merck's covenant not to sue Apotex. (D.I. 15.) A memorandum and order will follow at the court's earliest convenience.

Dated: April 10, 2007

  
L. A. M. D.

